

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

WADE LAY ,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-17-1224-D
	)	
OKLAHOMA DEPARTMENT OF	)	
CORRECTIONS, et al.,	)	
	)	
Defendants.	)	

**ORDER**

Plaintiff, a *pro se* litigant incarcerated at the Oklahoma State Penitentiary in McAlester, Oklahoma, filed this action on November 13, 2017. [Doc. No. 1]. He also filed a motion for leave to proceed *in forma pauperis* [Doc. No. 2] and a motion for injunctive relief [Doc. No. 3] the same day. Pursuant to 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Bernard M. Jones for initial proceedings.

After being ordered to cure deficiencies<sup>1</sup> in his *in forma pauperis* motion, Plaintiff filed an Amended Complaint [Doc. No. 8] and numerous other motions [Doc. Nos. 11-13, 17, 21, 25-26]. Ultimately, the Court denied Plaintiff's cured request to proceed *in forma pauperis*. [Doc. Nos. 18, 27]. Plaintiff appealed, and the Tenth Circuit denied relief on August 22, 2018. [Doc. No. 38].

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<sup>1</sup> Plaintiff was ordered three times to cure the deficiencies in his motion for leave to proceed *in forma pauperis*. [Doc. Nos. 7, 9, 14].

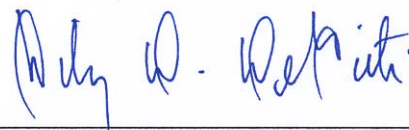
To date, Plaintiff has not paid his \$400.00 filing fee. As such, his Amended Complaint remains only conditionally filed. *See* LCvR 3.3(d). Also at issue are Plaintiff's numerous requests for injunctive relief and/or requests for protective orders, which Judge Jones construed as motions for temporary restraining orders. [Doc. Nos. 3, 11, 17, 26].

On August 28, 2018, Judge Jones filed a Report and Recommendation ("Report") [Doc. No. 39], in which he recommended that the Court deny Plaintiff's construed motions for temporary restraining orders [Doc. Nos. 3, 11, 17, 26]. Judge Jones also recommended that the Court dismiss the action within 21 days of an Order adopting the Report if Plaintiff did not pay the \$400.00 filing fee in full.

Judge Jones advised Plaintiff of his right to object and directed that any objection be filed on or before September 18, 2018. Judge Jones further advised Plaintiff that any failure to object would result in a waiver of the right to appellate review. The deadline for filing objections has passed. To date, Plaintiff has not filed objections and has not sought an extension of time in which to do so. Thus, the Court finds that Plaintiff has waived further review of the issues addressed in the Report. *See Moore v. United States*, 950 F.2d 656, 659 (10<sup>th</sup> Cir. 1991); *United States v. 2121 East 30<sup>th</sup> Street*, 73 F.3d 1057, 1060 (10<sup>th</sup> Cir. 1996).

Accordingly, Judge Jones' Report and Recommendation [Doc. No. 39] is ADOPTED as though fully set forth herein. Plaintiff's construed motions for temporary restraining orders [Doc. Nos. 3, 11, 17, 26] are DENIED. If Plaintiff does not pay the \$400.00 filing fee in full within 21 days of this Order, the Court, without further notice to Plaintiff, will dismiss this action without prejudice.

IT IS SO ORDERED this 25<sup>th</sup> day of September 2018.

A handwritten signature in blue ink, reading "Timothy D. DeGiusti". The signature is written in a cursive, flowing style.

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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE